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ABSTRACT

Designed for middle school through high school students, this unit contains eight lesson plans that focus on North Carolina state law. The state lessons correspond to lessons in the volume, "Antidote: Civic Responsibility. Drug Avoidance Lessons for Middle School & High School Students." Developed to be presented by educators, law student, or attorneys, the state lessons are interactive and sequential, although individual lessons can stand alone. The document includes legal information about driving while intoxicated, drug offenses, sentencing, and drug and alcohol statutes written specifically to combat juvenile abuse. (RJC)

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Antidote: Civic Responsibility

North Carolina Law

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SO 025 050

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Lesson 1

1. **Has Aimee violated any State laws? Have her parents?**

Aimee has broken no laws since a minor cannot be held legally responsible for an unintentionally dangerous act toward another minor. The girls' parents, however, may be guilty of child abuse under N.C. Gen. Stat. § 7A-517(1)b. (1993), which defines an abused juvenile as "[a]ny juvenile less than 18 years of age whose parent, guardian, custodian, or caretaker creates or allows to be created a substantial risk of serious physical injury to the juvenile by other than accidental means." A neglected juvenile is defined under § 7A-517(21) as "[a] juvenile who does not receive proper care, supervision, or discipline from the juvenile's parent, guardian, custodian, or caretaker; or who has been abandoned; or who is not provided necessary medical care; or who is not provided necessary remedial care; or who lives in an environment injurious to the juvenile's welfare; or who has been placed for care or adoption in violation of the law." If the parents habitually leave both children without adequate supervision or leave a sick child without adequate medical care, their behavior constitutes negligence which creates a substantial risk of injury to the children. If this is the case, they are guilty of misdemeanor child neglect and child abuse. N.C. Gen. Stat. §§ 14-316.1, 14-318.2 (1993). The punishment for misdemeanors may be fine, imprisonment for up to two years, or both, in the discretion of the court. N.C. Gen. Stat. § 14-3(a) (1993). In addition, the court may terminate parental rights if there is a finding of either abuse under § 7A-517 (1) or neglect under § 7A-517(21). N.C. Gen. Stat. § 7A-289.32 (1993).

2. **Does State statute allow 17-year-old Tyrell to drink a glass of wine with his dinner without his parents' consent?**

Tyrell may not drink the wine at all because he may not legally possess alcoholic beverages; the law specifically limits even possession at home to "any person at least 21 years of age." N.C. Gen. Stat. § 18B-301 (1993). In addition, "[i]t shall be unlawful for any person to sell or give malt beverages or unfortified wine to anyone less than 21 years old or sell or give fortified wine, spirituous liquor, or mixed beverages to anyone less than 21 years old." N.C. Gen. Stat. § 18B-302(a) (1993). Thus, Tyrell's parents may not give him the wine without violating this section.

3. **Is Maria violating any law when she tells her roommates whom to call to buy marijuana?**

Whether Maria's actions constitute a crime depends largely on the extent of her involvement with the actual seller of the marijuana. If Maria is merely telling her friends the identity of someone she believes sells marijuana, she is probably not violating any statute. If she is acting to

facilitate a drug purchase by her friends, i.e. is a key element in the sale of the marijuana and receives some consideration for her participation, she may be considered to have constructive possession of the drugs and could be charged with possession, even though she does not have physical possession. N.C. Gen. Stat. § 90-95(a) (1993). For small amounts of marijuana, this constitutes a misdemeanor and carries a penalty of up to 30 days' imprisonment or a fine of up to $100. The penalties are more severe for larger amounts of marijuana or for violations involving hashish. N.C. Gen. Stat. § 90-95(d)(4) (1993). If she is involved in this way, she may also be guilty of conspiracy under N.C. Gen. Stat. § 90-98 (1993). Conspiracy to violate any section of the North Carolina Controlled Substances Act is punishable by imprisonment or fine or both which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the conspiracy.

If Maria is participating in a drug conspiracy, she may also be violating federal law under 18 U.S.C.A. § 371 (West 1993), which prohibits conspiracy to commit any offense against the United States, and 21 U.S.C.A. § 846 (West 1993), which prohibits any attempt or conspiracy to commit any violation of federal drug control statutes.

4. **Have Adam and Alex broken any laws other than those against drinking and fighting?**

The twins are breaking several laws. First, they are guilty of disorderly conduct, defined under N.C. Gen. Stat. § 14-288.4(a)(1) (1993) as a public disturbance intentionally caused by any person who engages in fighting or any other violent conduct or in conduct creating the threat of imminent fighting or other violence." Depending on the circumstances of the fight, the boys may be guilty of or victims of a simple or aggravated assault. Punishment for these offenses, which are misdemeanors, ranges from a fine of $50 or imprisonment of up to 30 days, or both, for simple assault to a fine or imprisonment of up to two years, or both, for aggravated assault. N.C. Gen. Stat. § 14-33 (1993).

More seriously, the twins are likely to be charged with involuntary manslaughter, which is "the unlawful killing of a human being, unintentionally and without malice, proximately resulting from the commission of an unlawful act not amounting to a felony, or resulting from some act done in an unlawful or culpably negligent manner, when fatal consequences were not improbable under all the facts existent at the time...." State v. Lawson, 6 N.C. App. 1, 169 S.E.2d 265 (1969). Involuntary manslaughter is punishable as a Class H felony. N.C. Gen Stat. § 14-18 (1993). The penalty for a Class H felony is imprisonment of up to 10 years, or a fine, or both. N.C. Gen. Stat. § 14-1.1(8) (1993).

5. **Has Jose violated any State law even though he is not drinking? Has Carlos or TJ violated any State law?**

If they are carrying open containers of any alcoholic beverage inside the car, Jose, Carlos and TJ are all violating N.C. Gen. Stat. § 18B-401 (1993), which makes it unlawful for any person "to transport fortified wine or spirituous liquor in the passenger area of a motor vehicle in other than the manufacturer's unopened original container." Such behavior is a misdemeanor punishable by a fine of $25 to $500, imprisonment for up to 30 days, or both.

Carlos and TJ are also violating several other laws. Because he is under 21, TJ may not legally purchase or possess any alcoholic beverages. N.C. Gen. Stat. § 18B-302(b) (1993). If Tj purchased the alcohol himself, he is likely to have used a fake ID, which is a violation of § 18B-302(e). For such an offense, he will lose his driver's license for one year. N.C. Gen. Stat. §§ 18B-302(g)(3), 20-17.3 (1993). Under N.C. Gen. Stat. § 18B-302(a), it is unlawful for any person to sell or give alcoholic beverages to a minor, so if Carlos provided the alcohol to TJ, he is guilty of this as well of aiding a minor in the illegal purchase or possession of alcohol; for this misdemeanor, he is subject to a fine of up to $2,000 or imprisonment of up to two years, or both. Carlos is also guilty of contributing to the delinquency of a minor, another misdemeanor. N.C. Gen. Stat. § 14-316.1 (1993). The punishment for misdemeanors may be fine, imprisonment for up to two years, or both, in the discretion of the court. N.C. Gen. Stat. § 14-3(a) (1993). Finally, both Carlos and TJ are violating N.C. Gen. Stat. § 18B-301(f)(1)c. (1993), which prohibits consuming or offering to another person any alcoholic beverages while on any public road, street, highway, or sidewalk.

6. **Is Dr. Melrose committing any violation by prescribing painkillers without conducting an examination or determining need?**

Dr. Melrose is violating not only state but federal law. Prescribing powerful drugs without first determining the patient's need by examination constitutes unprofessional conduct and Dr. Melrose may lose his license under N.C. Gen. Stat. § 90-14(5) (1993), which defines unprofessional conduct as "including, but not limited to, departure from, or the failure to conform to, the standards of acceptable and prevailing medical practice, or the ethics of the medical profession, irrespective of whether a patient is injured thereby, or the committing of an act contrary to honesty, justice, or good morals, whether the same is committed in the course of his practice or otherwise, and whether committed within or without North Carolina."

Since under the circumstances Dr. Melrose's prescription is a violation of medical ethics and state law, the prescription is

not valid. Therefore, Dr. Melrose is violating N.C. Gen. Stat. § 90-106 (1993), which prohibits dispensing controlled substances without a written prescription. Under N.C. Gen. Stat. § 90-108(2) (1993), it is unlawful for a practitioner to distribute a controlled substance in violation of N.C. Gen. Stat. §§ 90-105 or 106. In addition, he is violating N.C. Gen. Stat. § 90-95 (1993), which prohibits the manufacture, sale, or delivery or possession with intent to manufacture, sell, or deliver of a controlled substance. Any violation of this statute is a felony, with punishment adjusted according to the type of drug involved.

Under U.S. law 21 U.S.C.A. § 829 (West 1993), a physician must have a legitimate medical purpose for dispensing drugs, and the act of dispensing or prescribing drugs should be within the usual course of professional practice. U.S. v. Varma, 691 F.2d 460 (1982); U.S. v. Jamieson, 605 F.Supp. 119 (1985).

Dr. Melrose's patients, if they do not provide to him a bona fide reason for needing the painkillers, may also be breaking the law. N.C. Gen. Stat. § 90-108(10) (1993) prohibits obtaining possession of controlled substances "by misrepresentation, fraud, forgery, deception, or subterfuge"; § 90-108(13) prohibits obtaining controlled substances "through the use of legal prescriptions which have been obtained by the knowing and wilful [sic] misrepresentation to or by the knowing withholding of information from one or more practitioners." Federal law 21 U.S.C.A. § 843 (West 1993) likewise prohibits knowingly or unknowingly acquiring possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge.

7. **Is Danielle violating any law by taking only one or two pills from someone else's prescription?**

Danielle is violating several laws. First, larceny is a common-law offense in North Carolina, and at common law both grand and petit larceny were felonies. State v. Cooper, 25 N.C. App. 194, 212 S.E.2d 557 (1975). North Carolina has by statute abolished all distinctions between petit and grand larceny and provided that larceny is a felony. N.C. Gen. Stat. §§ 14-70, 14-2 (1993). In addition, she has stolen from her employer, which is a Class H felony punishable by imprisonment of up to 10 years or a fine, or both. N.C. Gen. Stat. §§ 14-74, 14-1.1(8) (1993). She is also in possession of stolen goods, which is punishable by the same penalty as larceny. N.C. Gen. Stat. § 14-71.1 (1993).

More seriously, because she is stealing prescription drugs, Danielle is violating many state and federal drug-control statutes. She is violating N.C. Gen. Stat. § 90-95 (1993), which prohibits possession of a controlled substance. Any violation of this statute is a felony, with punishment adjusted according to the type of drug involved. She is also violating N.C. Gen. Stat. § 90-108(10) (1993), which prohibits

obtaining possession of controlled substances "by misrepresentation, fraud, forgery, deception, or subterfuge", and § 90-108(14), which prohibits anyone who is "an employee of a registrant or a practitioner and who is authorized to possess controlled substances or has access to controlled substances by virtue of his employment" from embezzling or fraudulently or knowingly and willfully misapplying or diverting to his own use or other illegal or unauthorized use, or from taking away, making away with or secreting with intent to embezzle or fraudulently or knowingly and willfully misapply or divert to his own use or other illegal or unauthorized use any controlled substance which shall have come into his possession or under his care. Also, since she is in effect dispensing prescription drugs to herself, she is violating N.C. Gen. Stat. § 90-106 (1993), which prohibits dispensing controlled substances without a written prescription.

Danielle is also violating U.S. law under 21 U.S.C.A. § 843 (West 1993), which prohibits knowingly or unknowingly acquiring possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge, and 21 U.S.C.A. § 844 (West 1993), which prohibits simple possession of a controlled substance unless such substance was obtained by prescription. The seriousness of her crime under these drug-control codes will depend on the type of drugs she takes from the customers' prescriptions and how she uses them.

8. **Is Renee breaking state law even though she is not selling the drugs herself?**

Even though she is not selling the drugs directly, Renee is violating several state and federal laws. She is violating N.C. Gen. Stat. § 90-95(a)(1) (1993), which prohibits the manufacture, sale, or delivery or possession with intent to manufacture, sell, or deliver of a controlled substance. Any violation of this statute is a felony, with punishment adjusted according to the type of drug involved; § 90-95(h) enumerates specific penalties for dealing in large amounts of various drugs. Renee is also violating N.C. Gen. Stat. § 90-106 (1993), which prohibits dispensing controlled substances without a written prescription. In addition, she may be guilty of conspiracy under N.C. Gen. Stat. § 90-98 (1993). Conspiracy to violate any section of the North Carolina Controlled Substances Act is punishable by imprisonment or fine or both, which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the conspiracy.

By involving her young daughter in the drug trade, Renee has added seriously to her offenses. N.C. Gen. Stat. § 90-95(e) (1993) provides specific punishment and degree of offense for violations under certain conditions. Subsection (e)(5) states that "[a]ny person 18 years of age or over who violates G.S. 90-95(a)(1) by selling or delivering a controlled substance to

a person under 16 years of age or a pregnant female shall be punished as a Class E felon"; subsection (e)(8) states that "[a]ny person 21 years of age or older who commits an offense under G.S. 90-95(a)(1) on property used for an elementary or secondary school or within 300 feet of the boundary of real property used for an elementary or secondary school shall be punished as a Class E felon." Punishment for a Class E felony is imprisonment of up to 30 years, or a fine, or both. N.C. Gen. Stat. § 14-1.1 (1993).

In addition, Renee will lose custody of her daughter under state child abuse statutes. N.C. Gen. Stat. § 7A-517(1)b (1993) defines an abused juvenile as "[a]ny juvenile less than 18 years of age whose parent, guardian, custodian, or caretaker creates or allows to be created a substantial risk of serious physical injury to the juvenile by other than accidental means"; a neglected juvenile is defined in § 7A-517(21) as "[a] juvenile who does not receive proper care, supervision, or discipline from the juvenile's parent, guardian, custodian, or caretaker; or who has been abandoned; or who is not provided necessary medical care; or who is not provided necessary remedial care; or who lives in an environment injurious to the juvenile's welfare; or who has been placed for care or adoption in violation of the law." Renee is guilty of misdemeanor child neglect and child abuse. N.C. Gen. Stat. §§ 14-316.1, 14-318.2 (1993). She is also guilty of contributing to the delinquency of a minor and neglect under N.C. Gen. Stat. § 14-316.1 (1993), which states: "Any person who is at least 16 years old who knowingly or willfully causes, encourages, or aids a juvenile within the jurisdiction of the court to be in a place or condition, or to commit an act whereby the juvenile could be adjudicated delinquent, undisciplined, abused, or neglected as defined by G.S. 7A-517 shall be guilty of a misdemeanor." The punishment for misdemeanors may be fine, imprisonment for up to two years, or both, in the discretion of the court. N.C. Gen. Stat. § 14-3(a) (1993). The court may terminate parental rights if there is a finding of either abuse under § 7A-517 (1) or neglect under § 7A-517(21). N.C. Gen. Stat. § 7A-289.32 (1993).

Renee is also violating federal drug-control statutes such as 21 U.S.C.A. § 841 (West 1993), prohibiting possession of a controlled substance with the intent to manufacture, distribute or dispense such substance; 21 U.S.C.A. § 844 (West 1993), prohibiting simple possession of a controlled substance; and 21 U.S.C.A. § 861 (West 1993), prohibiting the knowing and intentional use of any person under 18 years of age to violate any federal drug control provision. If Renee is participating in a drug conspiracy, she may also be violating federal law under 18 U.S.C.A. § 371 (West 1993), which prohibits conspiracy to commit any offense against the United States, and 21 U.S.C.A. § 846 (West 1993), which prohibits any attempt or conspiracy to commit any violation of federal drug control statutes.

In addition, Renee could receive heavier sentencing under federal statutes. Under 21 U.S.C.A. § 859 (West 1993), the distribution of a controlled substance to a person under 21 years of age is subject to increased penalties. The United States expressed its concern with the importance of protecting children from drug trafficking under 21 U.S.C.A. § 860 (West 1993), which imposes heavier prison sentences in cases involving the distribution or manufacture of controlled substances in the proximity of schools, playgrounds, or youth centers. 18 U.S.C.A. App. 4 § 3B1.3 (West 1993) also provides for increased sentences in cases of abuse of position of trust, as in a drug trafficking defendant's involvement of her young daughter in the drug trade. U.S. v. Ledesma, 979 F.2d 816 (1992).

9. **Did Jim violate any law other than those regarding controlled substances?**

The state legislature has not yet created any law dealing specifically with this situation, nor has it arisen in the state courts. Under the Model Penal Code, however, such behavior could constitute simple or aggravated assault or the attempt thereof, or reckless endangerment; under certain extreme situations, it could be construed as murder. See Gene Schultz, AIDS: Public Health and the Criminal Law, 7 St. Louis U. Pub. L. Rev. 65 (1988); Roger N. Braden, AIDS: Dealing With the Plague, 19 N. Ky. L. Rev. 277 (1992). In some cases, it has been suggested that the HIV virus provides a deadly weapon. Cf. Brock v. State, 555 So.2d 285 (Ala. Crim. App. 1989).

Jim's companion Andre may be charged in Jim's death by overdose with felonious assault with a deadly weapon and first-degree murder. N.C. Gen. Stat. § 14-32(b) (1993) states: "Any person who assaults another person with a deadly weapon and inflicts serious injury shall be punished as a Class H felon." A Class H felony is punishable by imprisonment of up to 10 years or a fine, or both. N.C. Gen. Stat. § 14-1.1(8) (1993). Among the types of murder in the first degree defined under N.C. Gen. Stat. § 14-17 (1993) is any murder "committed in the perpetration of any arson, rape or a sex offense, robbery, kidnapping, burglary, or other felony committed or attempted with the use of a deadly weapon...." Punishment for first-degree murder is death or life imprisonment.

10. **Has the bartender or the owner at Bulldog's Bar and Grill violated any law?**

Both the bartender and the owner of the bar, as permittee, are in violation of N.C. Gen. Stat. § 18B-305(a) (1993), which prohibits knowingly selling or giving alcoholic beverages to any person who is intoxicated. "A violation of this section constitutes negligence per se. However, the nature of the

alleged negligence of the defendant [server or permittee] does not alter the effect of plaintiff's [intoxicated driver's] contributory negligence." Brower v. Robert Chappell & Associates, 74 N.C. App. 317, 328 S.E.2d 45, cert. denied, 314 N.C. 537, 335 S.E.2d 313 (1985). "Contributory negligence of plaintiffs' decedent, who was operating his vehicle in an impaired condition in violation of § 20-1138.1, was a defense to wrongful death claim under § 28A-18-2 based on defendants' alleged negligence in selling alcohol to an intoxicated person." Clark v. Inn W., 89 N.C. App. 275, 365 S.E.2d 682, rev'd on other grounds, 324 N.C. 415, 379 S.E.2d 23 (1989). See also Chastain v. Litton Systems, 694 F.2d 9547 (4th Cir. 1982), cert. denied, 462 U.S. 1106, 1035 S. Ct. 2454, 77 L. Ed. 2d 1334 (1983).

Lesson 2

CRIMINAL JUSTICE STATISTICS:
DRUG AND ALCOHOL RELATED OFFENSES
UNIFORM CRIME REPORT DATA OF 1990--CRIME IN THE UNITED STATES

According to the Uniform Crime Report of 1990, 68% of the drug abuse violators were arrested for possession of heroin, cocaine or a narcotic derivative. A little over 31% of drug arrests were for the sale and manufacture of drugs.

Out of the 14,195,100 total number of arrests that occurred in 1990, drug abuse violations accounted for 1,089,500, driving under the influence comprised 1,810,800, and liquor law violations represented 714,700 of the total.

1981-1990 Ten Year Trend

Arrests for Drug Abuse Violations

In 1981, the total number of arrests for drug abusers under the age of 18 was 69,383. On the other hand in 1990, the total number was 50,435. This represents a 27.3% **decrease** in the number of arrests for persons under the age of 18. However, the number of arrests for persons over the age of 18 represent an 89.9% **increase** from 332,733 in 1981 to 631,932 in 1990.

Liquor Law Violations

For persons over the age of 18, the number of arrests for liquor law violations have dramatically **increased** to 61% from 218,079 in 1981 to 351,064 in 1990. However, the number of arrests for persons under the age of 18 has decreased to less than 0.4%.

♦ ♦ ♦

Criminal Victimization in the United States, 1990
A National Crime Victimization Survey Report, February, 1992

Percent Distribution of Victimizations by Perceived Drug or Alcohol Use by Offender:

- Of the **130,260** total rapes reported by victims to police, **49.8%** were believed to be committed by someone under the influence of drugs or alcohol.
- Of a total of **1,149,710** reported robberies, **24.2%** involved an offender under the influence of drugs or alcohol.
- Of **1,600,760** aggravated assaults committed **40%** were committed by people under the influence of drugs.
- Of the **3,128,130** simple assaults reported, **32.9%** were perpetrated by someone perceived to be under the influence of drugs or alcohol.

Lesson 4

FEDERAL SCHEDULE (answers to handout 3)

DRUG	SCHEDULE
heroin	schedule 1
beer	not a scheduled drug
vodka	not a scheduled drug
nitrate	not a scheduled drug
amphetamines	schedule 3
caffeine	not a scheduled drug
marijuana	schedule 1
crack	schedule 2
scotch	not a scheduled drug
MSG	not a scheduled drug
cocaine	schedule 2
glue	not a scheduled drug

FEDERAL PENALTIES BY SCHEDULE FOR POSSESSION

SCHEDULE	MAX. PRISON	MAX. FINE	MAX. TOTAL
schedule 1	15 years	$25,000	15yrs + $25,000
schedule 2	15 years	$25,000	15yrs + $25,000
schedule 3	5 years	$15,000	5yrs + $15,000
schedule 4	3 years	$10,000	3yrs + $10,000
schedule 5	1 year	$ 5,000	1yr + $ 5,000
unscheduled drug	n/a	n/a	n/a

The penalty doubles if the defendant has a previous conviction for a schedule law violation.

In order for a drug to be a narcotic, it must be a derivative of opium. All narcotics contain opium or opium derivatives, ie: heroin.

Malt beverages such as beer are not included in the scheduling process. They are controlled by liquor laws.

Information from 21 U.S.C.A. § 841 (West 1981).

States	Heroin	Cocaine	Crack	Marijuana	Amphetamine
Alabama	sch 1	sch 2	sch 2	sch 1	sch 3
Alaska	sch 1A	sch 2A	sch 2A	sch 3A	sch 4A
Arizona	sch 1	sch 2	sch 2	sch 1	sch 2
Arkansas	sch 1	sch 2	sch 2	sch 1	not listed
California	sch 1	sch 2	sch 2	sch 1	sch 2
Colorado	sch 1	sch 2	sch 2	sch 1	sch 2
Connecticut	sch 1	sch 2	sch 2	sch 1	sch 3
Delaware	sch 1	sch 2	sch 2	sch 1	sch 2
D.C.	sch 1	sch 2	sch 2	sch 2	sch 2
Florida	sch 1	sch 2	sch 2	sch 1	sch 2
Georgia	sch 1	sch 2	sch 2	sch 1[1]	sch 2
Hawaii	sch 1	sch 2	sch 2	sch 1	sch 2
Idaho	sch 1	sch 2	sch 2	sch 1	sch 2
Illinois	sch 1	sch 2	sch 2	listed under its act: the Cannabis Control Act, 56 1/2 §701 et seq	sch 2
Indiana	sch 1	sch 2	sch 2	sch 1	sch 2
Iowa	sch 1	sch 2	sch 2	sch 1	sch 2
Kansas	sch 1	sch 2	sch 2	sch 1	sch 1
Kentucky	sch 1	sch 2	sch 2	sch 1	sch 2
Louisiana	sch 1	sch 2	sch 2	sch 1	sch 2
Maine[2]	sch W	sch W	sch W	sch W & Z	sch W
Maryland	sch 1	sch 2	sch 2	sch 1	sch 1
Massachusetts[3]	class A	class B	class B	class D	class B
Michigan	sch 1	sch 2	sch 2	sch 1	sch 2
Minnesota	sch 1	sch 2	sch 2	sch 1	sch 2
Mississippi	sch 1	sch 2	sch 2	sch 1	sch 2
Missouri	sch 1	sch 2	sch 2	sch 1	sch 2
Montana	sch 1	sch 2	sch 2	sch 1	sch 2

[1] Must have more than 15% THC (tetrahydrocannobinol), the chemical in the cannabis plant.

[2] Maine schedules its drugs under an alphabetical category: W, X, Y & Z. The schedules are similar to other state categorizations.

[3] Massachusetts calls their schedules classes, but they are the same thing.

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States	Heroin	Cocaine	Crack	Marijuana	Amphetamine
Nebraska	sch 1	sch 2	sch 2	sch 1	sch 2
Nevada[4]	sch 1	sch 2	sch 2	sch 1	sch 3
New Hampshire	sch 1	sch 2	sch 2	sch 1	sch 3
New Jersey	sch 1	sch 2	sch 2	sch 1	sch 3
New Mexico	sch 1	sch 2	sch 2	sch 1 & 2	sch 2
New York	sch 1	sch 2	sch 2	sch 1	sch 2
North Carolina	sch 1	sch 2	sch 2	NC has a sixth schedule which incl. marijuana	sch 2
North Dakota	sch 1	sch 2	sch 2	sch 1	sch 2
Ohio	sch 1	sch 2	sch 2	sch 1	sch 2
Oklahoma	sch 1	sch 2	sch 2	sch 1	sch 2
Pennsylvania	sch 1	sch 2	sch 2	sch 1	sch 2
Puerto Rico	sch 1	sch 2	sch 2	sch 1	sch 3
Rhode Island	sch 1	sch 2	sch 2	sch 1	sch 2
South Carolina	sch 1	sch 2	sch 2	sch 1	sch 2
South Dakota	sch 1	sch 2	sch 2	sch 1	sch 2
Tennessee	sch 1	sch 2	sch 2	sch 2, but only for certified patients under the Controlled Substances Therapeutic Research Act	sch 2
Texas	sch 1	sch 2	sch 2	sch 1	sch 2
Utah	sch 1	sch 2	sch 2	sch 1	sch 2
Vermont	sch 1	sch 2	sch 2	sch 1	sch 3
Virginia	sch 1	sch 2	sch 2	not listed, but liquid marijuana or hashish oil is listed as sch 1	sch 2
Washington	sch 1	sch 2	sch 2	sch 1	sch 2
West Virginia	sch 1	sch 2	sch 2	sch 1	sch 2
Wisconsin	sch 1	sch 2	sch 2	sch 1	sch 2

[4] While Nevada does not specifically name drugs under its five schedules, but instead lists the specific tests to determine under which schedule a drug belongs § 453.2182 says that the state will use 21 USC as a guide for scheduling. The state merely reserves the right to reschedule any controlled substance as it sees fit according to the tests set out in 453.166, et. seq.

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States	Heroin	Cocaine	Crack	Marijuana	Amphetamine
Wyoming	sch 1	sch 2	sch 2	sch 1	sch 2

OFFENSE/SUBSTANCE	SENTENCE
First Offense: Cocaine - Possession With Intent To Distribute - 5 kg	• imprisonment for at least 35 years, and • fine of at least $250,000
First Offense: Trace of Heroin - Possession of 1 kg or more of a mixture with a small, but detectable amount of heroin	• imprisonment for at least 45 years, and • fine of at least $500,000
First Offense: Codeine - Possession - 200 mg	• imprisonment for up to 2 years, and/or • fine of $2000
Second Offense: Marijuana - Possession - 50 kg	• imprisonment for at least 7 years, and • fine of at least $25,000
Third Offense - Methamphetamine - Possession - 100 g	• imprisonment for at least 7 years, and • fine of at least $50,000

Cite: N.C. Gen. Stat. § 90-95.

Current Federal Penalties:

Group 1 and Group 2: . . . person shall be sentenced to prison which may not be less than 10 years or more than life and a fine not to exceed 4 million dollars.

Group 3: . . . person shall be sentenced to a term of imprisonment of not more than one year, a fine not exceed $250,000 in the case of an individual.

Group 4: . . . person shall be sentenced to a term of imprisonment of not more than 10 years, a fine not to exceed $500,000.

Group 5: . . . person shall be sentenced mandatory life imprisonment without release and fine not to exceed $8 million.

Cite: 21 U.S.C. § 841 (1992).

Lesson 6 & 7

1. **What does DUI stand for?**

Driving while intoxicated.

2. **What does DUI stand for?**

Driving under the influence. Under §20-138.1 - impaired driving - a person commits the offense of impaired driving if he/she drives a vehicle: (1) while under the influence of an impairing substance; or (2) has a blood alcohol concentration (BAC) of 0.10 or more.

3. **In terms of penalties, is being convicted of DWI more serious than being convicted of DUI?**

There is no difference, the violation is "impaired driving."

4. **What are the penalties for being convicted of DWI? DUI?**

Impaired driving as defined under §20-138.1 is a misdemeanor. Under §20-179 North Carolina has different levels of punishment under which an individual can be punished. The judge uses his/her discretion to determine the severity of the punishment. Aggravating factors such as the cause of an injury may result in a stiffer penalty. Level one punishment is a fine up to $2000 and jail for 14 days-24 months, or probation. Level two punishment is a fine up to $1000 jailed for 7 days-12 months. Level three punishment is a fine up to $500 and jail for 72 hours-6 months. Level four punishment is a fine up to $250 and jail for 48 hours to 120 days. Level five punishment is a fine up to $100 and jail for 24 hours to 60 days.

5. **What is the penalty for refusing to submit to a breathalyzer test upon a police officer's reasonable request?**

Under §20-16.2 any person who drives within the state of North Carolina consents to a test to determine blood alcohol concentration. Refusal to take the test will result in an immediate license revocation for 10 days and an additional 12 months.

6. **What must a person's blood alcohol content (BAC) be before he/she is legally intoxicated?**

Under §20-138.1 the BAC for intoxication is 0.10.

7. **The legal limit for blood alcohol is lower for persons under the legal drinking age of 21. True or False?**

False. North Carolina does not have a separate BAC for minors.

8. **An open container of alcohol can be in your car if you are 21 or over. True or False?**

False. Section 188-401 states that it shall be unlawful for a person to transport alcoholic beverages in the passenger area of a motor vehicle in anything other than the manufacturer's unopened original container.

Under §188-301 it is unlawful for a person under 21 to possess or consume alcohol while driving.

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Lesson 9

Although the drinking age is 21 in all 50 states (meaning specifically that the sale of alcohol to minors is prohibited), the laws on teenage drinking vary from state to state. The laws vary in regard to whether they include prohibition of the purchase of alcohol, the attempt to purchase alcohol, the consumption of alcohol and the possession of alcohol. According to the **March 11, 1993 Safety Recommendation report of the National Transportation Safety Board,**

- Five states (DE, FL, MT, NH & NY) and the District of Columbia do not prohibit the purchase of alcohol by minors.
- West Virginia and the District of Columbia do not prohibit public possession of alcohol by minors.
- 23 states (AK, AR, DE, DC, FL, GA, RI, IL, IA, LA, ME, MD, MI, MS, MT, NV, NH, NY, SC, TX, UT, VT, VA) do not prohibit minors from attempting to purchase alcohol.
- 21 states (AR, CO, CT, FL, GA, HI, IA, KY, LA, MA, MS, MO, NE, NH, NM, NC, OR, SC, VT, WV, WY) do not prohibit alcohol consumption by minors.
- 16 states (AR, CA, CO, HI, KY, LA, ME, MI, NM, NY, NC, OK, SD, VA, WA, WY) do not prohibit minors from misrepresenting their age in order to purchase alcohol.
- 19 states (AL, AR, CO, DE, DC, IA, KS, LA, MD, MN, MT, NJ, OR, PA, SC, UT, VA, WA, WI) do not prohibit minors from presenting false ID to purchase alcohol.

In addition, most states do no prohibit minors from driving with alcohol in their blood unless their blood alcohol content reaches the adult legal limit, which is .10 percent in most states. Fifteen states, however, have amended their laws to lower for minors the permitted blood alcohol content while driving. These laws vary according to the age under which minors must be in order for the lower blood alcohol content to apply. Here is the layout for state laws on blood alcohol content for minors while driving:

0.00 BAC	0.01 BAC	0.02 BAC	0.04 BAC	0.05 BAC	0.06 BAC
AZ (<21)	NJ (<21)	ME (<21)	RI (<21)	CA (<18)	GA (<18)
NC (<19)		MD (<21)	NH (<21)	NM (<18)	
OR (<21)		OH (<18)			
UT (<21)		VT (<18)			
WI (<18)					

A number of states have tried to cut down on teenage driving accidents by implementing nighttime driving restrictions. The following states have some form of curfew for teenage driving:

ID: minors <16 can drive during the daytime only
IL: minors <17 cannot drive between 11pm-6am Mon-Thur and 12am-6am Fri-Sun
LA: minors <15 cannot drive between 11pm-6am Mon-Thur and 12am:6am Fri-Sun
MD: minors <16 cannot drive between 12am-5am
MA: minors <18 cannot drive between 1am-4am
NY: minors <18 cannot drive between 9pm-5am
PA: minors <18 cannot drive between 12am-5am
SD: minors <16 cannot drive between 8pm-6am.

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